

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT COURT OF NEW YORK

-----X  
JOHN ASSADI, ESQ.,

Plaintiff,

-against-

UNITED STATES DEPARTMENT OF STATE,

Defendant.  
-----X

Case No.:

**COMPLAINT FOR  
DECLARATORY AND  
INJUNCTIVE RELIEF**

**INTRODUCTION**

1. This is an action under the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552 *et seq.*, for injunctive and other appropriate relief, seeking the immediate processing and release of agency records requested by the Plaintiff, John Assadi, Esq., from Defendant, U.S. Department of State ("DOS"), an agency of the United States government.

**JURISDICTION AND VENUE**

2. This Court has jurisdiction over this action pursuant to 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1331.

3. Venue is proper in this District pursuant to 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1391(e).

**PARTIES**

4. Plaintiff John Assadi is a partner in the law firm of Assadi & Milstein, LLP. He is a U.S. citizen, resides in New York, New York, and has his principal place of business at 61 Broadway, Suite 2824, New York, New York, 10006.

5. Defendant United States Department of State ("DOS") is an agency of the United States Government and is headquartered at 2201 C Street, N.W., Washington, DC 20520. Defendant has possession, custody, and control of records to which Plaintiff seeks access.

#### **STATEMENT OF FACTS**

6. On October 11, 2011, Plaintiff John Assadi sent a FOIA request to Defendant seeking access to the records of the U.S. Department of State, including the National Visa Center (NVC) Fraud Prevention Unit, the American Embassies/Consulates in Ankara, Istanbul and Adana, Turkey, the American Embassy in Paris France, and the American Embassy in Abu Dhabi, United Arab Emirates. Plaintiff's FOIA request sought access to any and all documents, including operational and administrative policies, intra-agency memoranda, letters, cables, emails, personal correspondence or other communications relation to John Assadi, John J. Assadi or Assadi & Milstein LLP. Specifically, Plaintiff sought records from Defendant relating to an unclassified memorandum issued by the State Department NVC Fraud Prevention Unit on February 19, 2010 to the American Embassy/Consulate in Ankara, Turkey, among others, and subsequent anomalous treatment by the State Department entities of visa applications for applicants represented by John Assadi or Assadi & Milstein LLP. (See **Exhibit A**).

7. By letter dated November 18, 2011, the Defendant acknowledged receipt of Plaintiff's FOIA request and designated the request as Case Control Number F-2011-25151. In addition, the Defendant stated that it could not process the Plaintiff's request because Plaintiff did not provide proof of his identity (personal identification). Accordingly, Defendant deemed the Plaintiff's request as "invalid" and notified Plaintiff that the case was closed. (See **Exhibit B**).

8. On November 29, 2011, the Plaintiff submitted a new FOIA request to Defendant seeking access to the above records, together with Plaintiff's notarized signature and a notarized copy of Plaintiff's New York State Driver's License. (See **Exhibit C**).

9. Pursuant to 5 U.S.C. § 552(a)(6)(A)(i), Defendant was required to respond to Plaintiff's November 29, 2011 FOIA request within twenty (20) working days, or by December 28, 2011.

10. As of the date of this Complaint, Defendant has failed to produce any records responsive to Plaintiff's November 29, 2011 FOIA request or demonstrate that responsive records are exempt from production, nor has Defendant indicated when or whether any responsive records will be produced. In short, Defendant has failed to respond to the request in any manner.

11. Due to the fact that the Defendant failed to comply with the twenty (20) working day time limit set forth in 5 U.S.C. § 552(a)(6)(A), Plaintiff is deemed to have exhausted any and all administrative remedies with regards to his November 29, 2011 FOIA request, pursuant to 5 U.S.C. § 552(a)(6)(C).

**COUNT ONE**  
**(Violation of FOIA, 5 U.S.C. § 552)**

12. The allegations contained in ¶¶ 1 – 11 above are incorporated as though fully set forth herein.

13. Defendant is unlawfully withholding records requested by Plaintiff pursuant to 5 U.S.C. § 552.

14. Plaintiff is being irreparably harmed by Defendant's unlawful withholdings of requested records, and Plaintiff will continue to be irreparably harmed unless Defendant is compelled to conform its conduct to the requirements of the law.

**COUNT TWO**  
**(Equal Access to Justice Act, 5 U.S.C. § 504 and 28 U.S.C. § 2412)**

15. The allegations contained ¶¶ 1 – 14 above are incorporated as though fully set forth herein.

16. If a prevailing party, Plaintiff will seek attorney's fees and costs under the Equal Access to Justice Act (EAJA), as amended, 5 U.S.C. § 504 and 28 U.S.C. § 2412.

**PRAYER FOR RELIEF**

WHEREFORE, and in light of the foregoing, Plaintiff respectfully requests that this Court:

- A. Order Defendant to produce, by a date certain, any and all non-exempt records responsive to Plaintiff's November 29, 2011 FOIA request and a *Vaughn* index of any responsive records withheld under claim of exemption;
- B. Enjoin Defendant from continuing to withhold any and all non-exempt records responsive to Plaintiff's November 29, 2011 FOIA request;
- C. Grant Plaintiff an award of attorney's fees and other litigation costs reasonably incurred in this action pursuant to 5 U.S.C. § 552(a)(4)(E); and
- D. Grant Plaintiff such other and further relief as this Court may deem just and proper.

Dated: 2/14/2012

Respectfully submitted,  
  
s/ Rakhel Speyer Milstein, Esq.  
***Rakhel Speyer Milstein, Esq.***  
Assadi & Milstein LLP  
61 Broadway, Suite 2824  
New York, NY 10006  
Telephone: (212) 981-1981  
FAX: (212) 643-9192  
[rmilstein@assadimilstein.com](mailto:rmilstein@assadimilstein.com)  
Attorney for Plaintiff John Assadi

**FREEDOM OF INFORMATION ACT REQUEST**

October 11, 2011

Office of Information Programs and Services  
A/GIS/IPS/RL  
Department of State, SA-2  
Washington, DC 20522-8100

Dear FOIA Officer:

This is a request filed under the Freedom of Information Act.

My name is John J. Assadi and I was born on December 10, 1960 in Pittsburgh, Pennsylvania.

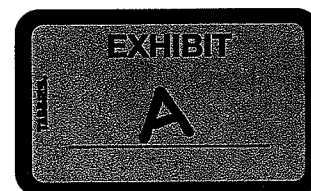
Date range of request: January 1, 2009 through the current date.

Description of request: Please search the records of the U.S. Department of State, including the National Visa Center, Fraud Prevention Unit, the American Embassies/Consulates in Ankara, Istanbul and Adana, Turkey, the American Embassy in Paris, France and the American Embassy in Abu Dhabi, United Arab Emirates, and provide any and all documents, including operational and administrative policies, intra-agency and inter-agency memoranda, letters, cables, emails, personal correspondence or other communications relating to **John Assadi, John J. Assadi or Assadi & Milstein LLP**.

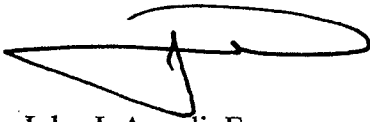
The circumstance that led to the creation of such records and the basis for my belief that such records exist within the Department of State and its offices relate to an unclassified memorandum issued by the State Department NVC Fraud Prevention Unit on February 19, 2010 to the American Embassy/Consulate, in Ankara, Turkey, among others, and subsequent anomalous treatment by State Department entities of visa applications for applicants represented by John Assadi or Assadi & Milstein LLP.

I am willing to pay up to \$1,000 for the processing of this request. Please inform me if the estimated fees will exceed this limit before processing my request. I can be reached at (212) 981-1981 to resolve any matters that arise.

I am seeking information for personal use and not for commercial use.



Thank you for your consideration,

A handwritten signature in black ink, appearing to read 'John J. Assadi', with a large, stylized loop at the end.

John J. Assadi, Esq.  
61 Broadway  
Suite 2824  
New York, NY 10006  
(212) 981-1981  
jassadi@assadimilstein.com



United States Department of State  
Washington, D.C. 20520

November 18, 2011

John J Assadi, Esq.  
61 Broadway  
Suite 2824  
New York, NY 10006

**RE: Records relating to John Assadi or John J. Assadi or Assadi & Milstein LLP**

Dear Mr. Assadi:

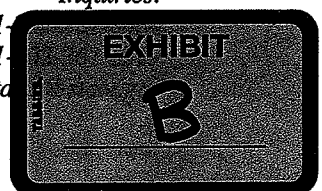
This is in response to your request dated **October 11, 2011**. We have assigned Case Control Number **F-2011-25151** to your request.

Based on our review of your correspondence, we have determined that we cannot process your request for the following reason(s):

- ☐ You have not reasonably described the records you seek in a way that someone familiar with Department records and programs could locate them.
- ☐ You have not provided a valid third party authorization; or proof of death; or custodial verification of a minor.
- ☐ You have not provided identifying information (such as your date and/or place of birth, or the date and/or place of birth for all persons named in your request; citizenship status).
- ☒ You have not provided proof of your identity (personal verification).
- ☐ Some or all of the records you have requested do not appear to be State Department records (other agency information may be attached).
- ☐ The records you seek are in the public domain.

Office of Information Programs and Services  
U.S. Department of State, SA-2  
Washington, DC 20522-8100  
Website: [www.foia.state.gov](http://www.foia.state.gov)

Inquiries:  
Phone: 1-800-457-7800  
FAX: 1-800-457-7800  
E-mail: [FOIAState@state.gov](mailto:FOIAState@state.gov)





- ☐ Your request is not dated.
- ☐ You have submitted your identifying information on forms that were not issued by the State Department, which we do not accept.
- ☐ You have not agreed to pay the fees associated with the processing of your request.
- ☐ Your request is not a FOIA Request.
- ☐ Your request was not submitted in English.

Accordingly, your request is invalid and your case has been closed.

Should you want to contact us, you may call our FOIA Requester Service Center on (202) 261-8484 or send an email to FOIAstatus@state.gov. If you want information concerning how to file a request, please refer to the Information Access Guide which is available at [www.foia.state.gov](http://www.foia.state.gov). Please refer to the Case Control Number in any communication.

Sincerely,



Mary Therese Casto  
Chief, Requester Communications Branch

**Personal Verification:** For records concerning yourself, the Department of State requires that your request be dated and signed, and that your signature either be notarized or contain an under penalty of perjury statement (22 C.F.R. 171.32(b)). Please note that your request may be forwarded to us by U.S. mail or by fax.

If using a notary, your request should bear your **signature and the signature and seal of the notary**, and be dated within six months of the date of the request.

In lieu of notarization, you may make the following statement: "I declare, certify, verify or state that, under penalty of perjury under the laws of the United States of America, the foregoing is true and correct." Such a statement must be forwarded to us **bearing your signature**, and be dated within six months of the date of the request.

**FREEDOM OF INFORMATION ACT REQUEST**

November 29, 2011

Office of Information Programs and Services  
A/GIS/IPS/RL  
Department of State, SA-2  
Washington, DC 20522-8100

**RE: F-2011-25151**

Dear FOIA Officer:

This is a request filed under the Freedom of Information Act. I previously filed a request on October 11, 2011, referenced above. I now submit a new request with my notarized signature and proof of identity. Please continue to process my FOIA request and advise me of any progress.

My name is John J. Assadi and I was born on December 10, 1960 in Pittsburgh, Pennsylvania.

Date range of request: January 1, 2009 through the current date.

Description of request: Please search the records of the U.S. Department of State, including the National Visa Center, Fraud Prevention Unit, the American Embassies/Consulates in Ankara, Istanbul and Adana, Turkey, the American Embassy in Paris, France and the American Embassy in Abu Dhabi, United Arab Emirates, and provide any and all documents, including operational and administrative policies, intra-agency and inter-agency memoranda, letters, cables, emails, personal correspondence or other communications relating to **John Assadi, John J. Assadi or Assadi & Milstein LLP**.

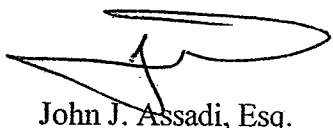
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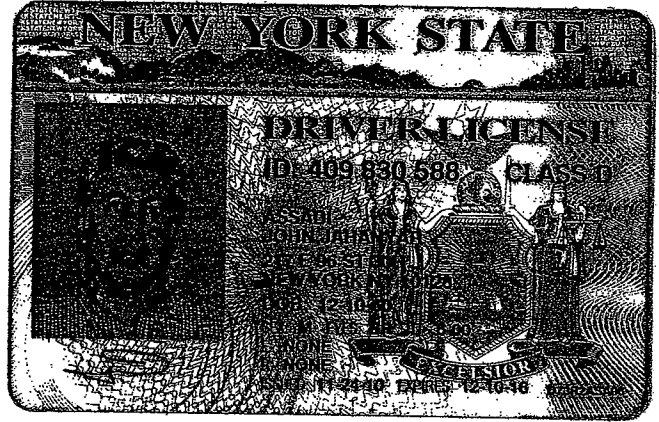
Thank you for your consideration,



John J. Assadi, Esq.  
61 Broadway  
Suite 2824  
New York, NY 10006  
(212) 981-1981  
jassadi@assadimilstein.com



RAKHEL SPEYER MILSTEIN  
Notary Public, State of New York  
No. 02MI6113375  
Qualified in Kings County  
Commission Expires July 26, 2012



*I verify this is a true copy.*

A handwritten signature in cursive script, appearing to read "Rakhel".

RAKHEL SPEYER MILSTEIN  
Notary Public, State of New York  
No. 02MI6113375  
Qualified in Kings County  
Commission Expires July 26, 2012



United States Department of State  
Washington, D.C. 20520

November 18, 2011

John J Assadi, Esq.  
61 Broadway  
Suite 2824  
New York, NY 10006

**RE: Records relating to John Assadi or John J. Assadi or Assadi & Milstein LLP**

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- ☐ You have not provided identifying information (such as your date and/or place of birth, or the date and/or place of birth for all persons named in your request; citizenship status).
- ☒ You have not provided proof of your identity (personal verification).
- ☐ Some or all of the records you have requested do not appear to be State Department records (other agency information may be attached).
- ☐ The records you seek are in the public domain.

- ☐ Your request is not dated.
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In lieu of notarization, you may make the following statement: "I declare, certify, verify or state that, under penalty of perjury under the laws of the United States of America, the foregoing is true and correct." Such a statement must be forwarded to us **bearing your signature**, and be dated within six months of the date of the request.